

(Del. Rev. 12/98)

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

Marvin W Johnson

(Name of Plaintiff or Plaintiffs)

v.

CIVIL ACTION No. 08-253-

Indian River School District

(Name of Defendant or Defendants)

COMPLAINT UNDER TITLE VII

OF THE CIVIL RIGHTS ACT OF 1964



1. This action is brought pursuant to Title VII of the Civil Rights Act of 1964, as amended, for **employment discrimination**. Jurisdiction exists by virtue of 42 U.S.C. §2000e-5. Equitable and other relief are also sought under 42 U.S.C. §2000e-5(g).

BD scanning
NO IFP

2. Plaintiff resides at 22707 Phillips Hill RD.
(Street Address)
Millsboro Sussex DE 19966
(City) (County) (State) (Zip Code)
302-934-9647 or 302-415-4461
(Area Code) (Phone Number)

3. Defendant resides at, or its business is located at 252 Clayton Ave.
(Street Address)
Frankford Sussex Del. 19945
(City) (County) (State) (Zip Code)

4. The discriminatory conduct occurred in connection with plaintiff's employment at, or application to be employed at, defendant's Indian River School Dist. place of business
(Defendant's Name)
located at Selbyville Middle School 80 Bethany Road
(Street Address)
Selbyville Sussex Del. 19975
(City) (County) (State) (Zip Code)

5. The alleged discriminatory acts occurred on 28, NOV, 2005.
(Day) (Month) (Year)

6. The alleged discriminatory practice ☐ is ☒ is not continuing. Terminated

7. Plaintiff filed charges with the Department of Labor of the State of Delaware,
NO I did not go to
(Agency) (Street Address) (City)
STATE OF Delaware with this, regarding
(County) (State) (Zip Code)
defendant's alleged discriminatory conduct on _____, _____, _____.
(Day) (Month) (Year)

8. Plaintiff filed charges with the Equal Employment opportunity Commission of the United States
regarding defendant's alleged discriminatory conduct on: 7, 7, 2006.
(Day) (Month) (Year)

BUT WAS 11/9/06 when called and Reported

9. The Equal Employment Opportunity Commission issued the attached Notice-of-Right-to-Sue letter
which was received by plaintiff on: 1ST, FEB., 2008.
(Day) (Month) (Year)

(NOTE: ATTACH NOTICE-OF-RIGHT-TO-SUE LETTER TO THIS COMPLAINT.)

10. The alleged discriminatory acts, in this suit, concern:

- A. ☐ Failure to employ plaintiff.
- B. ☒ Termination of plaintiff's employment.
- C. ☐ Failure to promote plaintiff.
- D. ☐ Other acts (please specify below)

11. Defendant's conduct is discriminatory with respect to the following:

- A. ☒ Plaintiff's race
- B. ☐ Plaintiff's color
- C. ☐ Plaintiff's sex
- D. ☐ Plaintiff's religion
- E. ☐ Plaintiff's national origin

12. A copy of the charges filed with the Equal Employment Opportunity Commission is attached to this complaint and is submitted as a brief statement of the facts of plaintiff's claim.

13. If relief is not granted, plaintiffs will be irreparably denied rights secured by Title VII of the 1964 Civil Rights Act, as amended.

14. Plaintiff's has no adequate remedy at law to redress the wrongs described above.

THEREFORE, Plaintiff prays as follows: (Check appropriate letter(s))

- A. ☐ That all fees, cost or security attendant to this litigation be hereby waived.
- B. ☐ That the Court appoint legal counsel.
- C. ☒ That the Court grant such relief as may be appropriate, including injunctive orders, damages, cost and attorney's fees.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: 4-28-08

Mamin Johnson
(Signature of Plaintiff)

(Signature of additional Plaintiff)

EEOC Form 161 (10/96)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Marvin Johnson
22707 Phillips Hill Road
Millsboro, DE 19966

From: Equal Employment Opportunity Commission
Philadelphia District Office
801 Market Street, Suite 1300
Philadelphia, PA 19107-3127

On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))

FOIA
ACT
COPY

315
440
2848
JACKI QUELI
MCNAIR
RATH

Charge No.	EEOC Representative	Telephone No.
530-2006-01549	Legal Unit	(215) 440-2828

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- ☐ The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- ☐ Your allegations did not involve a disability that is covered by the Americans with Disabilities Act.
- ☐ The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- ☐ We cannot investigate your charge because it was not filed within the time limit required by law.
- ☐ Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.
- ☐ While reasonable efforts were made to locate you, we were not able to do so.
- ☐ You had 30 days to accept a reasonable settlement offer that afford full relief for the harm you alleged.
- ☒ The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- ☐ The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- ☐ Other (briefly state) _____

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS** from your receipt of this Notice; otherwise, your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

Marie M. Tomasso, District Director

February 1, 2008

(Date Mailed)

Enclosure(s)

Information Sheet

cc: Indian River School District
Davis H. Williams, Esquire (For Respondent)

**INFORMATION RELATED TO FILING SUIT
UNDER THE LAWS ENFORCED BY THE EEOC**

*(This information relates to filing suit in Federal or State court under Federal law.
If you also plan to sue claiming violations of State law, please be aware that time limits and other
provisions of State law may be shorter or more limited than those described below.)*

**PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA),
or the Age Discrimination in Employment Act (ADEA):**

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge **within 90 days of the date you receive this Notice**. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: backpay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/96 to 12/1/96, you should file suit **before 7/1/98 -- not 12/1/98** -- in order to recover unpaid wages due for July 1996. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA backpay recovery period.

ATTORNEY REPRESENTATION -- Title VII and the ADA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

Marvin W. Johnson
22707 Phillips Hill Rd.
Millsboro, DE 19966

December 7, 2006

BY FAX AND MAIL: 215-440-2604
U.S. Equal Employment Opportunity Commission
Philadelphia District Office
21 South 5th Street, Suite 400
Philadelphia, PA 19106-2515

RE: No. 530-2006-01549

Dear Mr. White,

Please accept this letter as my rebuttal to the Respondent=s statement of position. The Respondent has asserted that I have failed to identify Athe other similarly situated White employees@ who have engaged in similar conduct; please find the identifications below:

Steve Hudson, white male custodian, made comments to teacher, Sherry Murray, about her attire. Murray testified under oath at the Board Hearing that Hudson=s comments were similar in nature to the ones that resulted in my termination. Similarly, this should have been a violation of the sexual harassment and ethics policies, yet, Hudson was not disciplined or terminated.

Greg Weer, white male head groundskeeper, was found bringing up sexually explicit images on the state computer, which would be a violation of the ethics policy as well as other applicable computer policies. Weir was given some time off work and his truck was downgraded to an older model. However, he was allowed to return to work and work until he retired.

Wilmer Dukes, white male chief custodian at Frankford Elementary, was reported for grabbing his crotch and making lewd and disrespectful comments to a cafeteria worker. This was a violation of the sexual harassment and ethics policy. Mr. Dukes was not terminated for this incident

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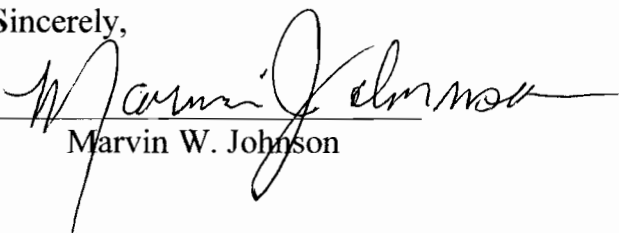
There were numerous times where Sylvester Quillen, white male chief custodian at Selbyville Middle School, asked Steve Hudson to perform certain duties, and Hudson failed to do so. The matter was handled by Quillen simply stating that Mr. Hudson just does what he wants to and does not do what he is told.

Sylvester Quillen explained to Johnson and Hudson that one of the cafeteria worker=s husbands did not want them in the cafeteria. Hudson went back into the cafeteria. Later, Johnson returned to the cafeteria. Johnson was terminated partially for insubordination based on this situation. Hudson was neither terminated nor disciplined.

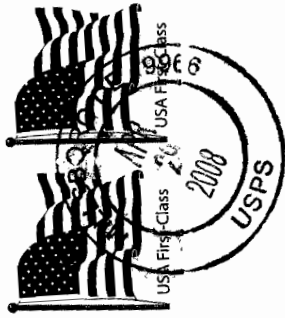
Finally, in terms of specific relief that I seek to settle this matter, I seek reinstatement into my position with seniority and raises, sick time and vacation time that I would have received had I not been terminated. I request to be transferred to a different school, ideally in the Northern part of the district. I also seek back pay for the thirteen (13) months that I have been separated from my job minus what I earned, a total of \$16,500.00. (I grossed approximately \$2,500 per month, so I estimate this amount at \$32,500.00 minus the income that I received from my current job of \$16,000.00, for a total of \$16,500.00 in backpay.) I seek the attorney=s fees that I have incurred, which total \$4,005.00, and punitive damages for stress and mental suffering in the amount of \$10,000.00.

I hope that this letter adequately addresses your request. If you need any further information from me, please contact me.

Sincerely,


Marvin W. Johnson

22707 Phillips Hill RD
Millsboro DE 19966



OFFICE of the Clerk
United States District Court
844 N. King Street Lock box XRAY
Wilmington DE 19801-3570

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